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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,596	10/29/2003	John Fleming	P-124205.01	4525
7590 07/07/2005			EXAMINER	
Daniel D. Chapman Suite 2100 112 E. Pecan St. San Antonio, TX 78205			HWJ, DAVIS D	
			ART UNIT	PAPER NUMBER
			3752	

DATE MAILED: 07/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/696,596

Applicant(s)

FLEMING ET AL.

Examiner

Davis D. Hwu

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1 is/are allowed.
- 6) ☒ Claim(s) 2-6, 10, 11, 13, 15 and 17-20 is/are rejected.
- 7) ☒ Claim(s) 7-9, 12, 14 and 16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/15/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 2, 5, 10, 13, 15, and 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Cunningham et al.

Cunningham et al. show a mosquito and insect control system comprising a container 3 containing a liquid insecticide, a distribution system as recited, nozzles at the removed end of the distribution system to direct the spray of insecticide, a pump 13 in operable engagement with the distribution system for pumping the insecticide from the container to a plurality of remote locations, and a programmable digital timer 21 for controlling the pump operable to energize and de-energize the pump for a pre-selected duration of time at a pre-selected time (Column 7, lines 17-25).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cunningham et al. in view of Coffee.

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Coffee teaches a pesticide spraying system comprising a container 1 made of polyethylene in which polyethylene containers are known for their strength and to not corrode. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device of Cunningham et al. by replacing the container with a polyethylene container as taught by Coffee to have a container that is strong and will not corrode.

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cunningham et al. in view of Tsutsui et al.

Tsutsui et al. teach using canned motor pump for use in high temperature environments. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device of Cunningham et al. by using a canned motor pump as taught by Tsutsui et al. to protect the pump from heat.

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cunningham et al. in view of Martin.

Martin teaches a fluid container comprising a sight glass 12 to show the liquid level in the container. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device of Cunningham et al. by incorporating a sight glass in the container as taught by Martin to show the liquid level in the container.

7. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cunningham et al.

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The use of a backup direct current power source would have been an obvious matter of design choice to provide backup power when necessary.

Allowable Subject Matter

8. Claims 7-9, 12, 14, 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Claim 1 is allowed.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Davis D. Hwu whose telephone number is 571-272-4904. The examiner can normally be reached on 8:00-4:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel can be reached on 571-272-4919. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Davis Hwu

DAVIS HWU
PRIMARY EXAMINER